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Working Group on Children and Armed Conflict

Conclusions on children and armed conflict in Iraq

1. At its 57th meeting, on 2 March 2016, the Working Group on Children and Armed Conflict examined the second report of the Secretary-General on children and armed conflict in Iraq (S/2015/852), introduced by the Special Representative of the Secretary-General for Children and Armed Conflict. The Deputy Permanent Representative of Iraq to the United Nations also addressed the Working Group.

2. The members of the Working Group welcomed the submission of the report of the Secretary-General, in accordance with Security Council resolutions 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012), 2143 (2014) and 2225 (2015), and took note of the analysis and recommendations contained therein.

3. The members of the Working Group noted from the briefing of the Special Representative the worsening trend of violations and abuses committed against children in armed conflict in Iraq, following the emergence of the Islamic State in Iraq and the Levant (ISIL/Da'esh). Those included the systematic recruitment and use of children by ISIL/Da'esh, the use of children as suicide bombers and executioners, and the increasing use of sexual violence, including rape and sexual slavery, as a tactic of war.

4. The members of the Working Group also noted the continued use of children by the popular mobilization forces, which had been placed under the authority of the Prime Minister. Another issue of concern was the detention of children on security charges under anti-terrorism laws, with questions raised on respect for due process and reports of ill-treatment and acts amounting to torture.

5. The Deputy Permanent Representative of Iraq reaffirmed the country's commitment to continuing to engage the Office of the Special Representative of the Secretary-General. The statement made by the Deputy Permanent Representative of Iraq is annexed to the present conclusions.

6. Further to the meeting, and subject to and consistent with applicable international law and relevant Security Council resolutions, including resolutions 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012), 2143 (2014) and 2225 (2015), the Working Group agreed to the direct action set out below.

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Public statement by the Chair of the Working Group

7. The Working Group agreed to address a message, through a public statement by the Chair of the Working Group, to all parties to the armed conflict in Iraq:

(a) Recalling the previous conclusions of the Working Group on children and armed conflict in Iraq (S/AC.51/2011/6), and reiterating the call for their full implementation;

(b) Expressing its strongest condemnation of all continuing violations and abuses committed against children in contravention of applicable international law in Iraq, and urging parties to the armed conflict to comply with their obligations under international law and to take all measures necessary to immediately end and prevent such violations and abuses, including those involving the recruitment and use of children, killing and maiming, rape and other forms of sexual violence, abduction, attacks against schools and hospitals and the denial of humanitarian access;

(c) Expressing grave concern over the large number of children killed and maimed as a direct or indirect result of hostilities between parties to the armed conflict and of incidents of indiscriminate attacks against the civilian population, including those involving heavy shelling and aerial bombardment, and calling upon all parties to respect their obligations under international humanitarian law, and in particular the principles of distinction and proportionality enshrined therein;

(d) Expressing grave concern at the continuing recruitment and use of children in violation of applicable international law, and strongly urging all parties to the armed conflict to immediately and without preconditions release all children within their ranks, in close cooperation with the United Nations and relevant child protection actors, where possible;

(e) Strongly condemning the targeting of schools and hospitals in violation of international humanitarian law, and noting with deep concern that such attacks, the military use of schools in contravention of applicable international law and the targeting of education and medical personnel endanger the safety of children and severely disrupt their access to education and health care;

(f) Urging all parties to the conflict to cease attacks or threats of attacks against schools and hospitals, as well as their personnel, in violation of international humanitarian law and to respect the civilian character of those institutions and their personnel in accordance with international humanitarian law.

8. The Working Group agreed to address a message, through a public statement by the Chair of the Working Group, to all armed groups operating in Iraq, in particular ISIL/Da'esh:

(a) Condemning in the strongest possible terms the abhorrent violations and abuses committed against children by armed groups, in particular ISIL/Da'esh, including their killing and maiming, systematic recruitment and use, abduction and rape, and other forms of sexual violence, noting that such violations may amount to war crimes or crimes against humanity, and strongly demanding that all armed groups immediately:

(i) Cease attacks directed against civilians and civilian objects that result in the killing and maiming of children and comply fully with international

humanitarian law by, inter alia, putting an end to any targeting of the civilian population, especially children, in violation of international humanitarian law, as well as to terror tactics and indiscriminate attacks in populated areas, including through attacks by suicide bombers or any other form of extreme violence or the indiscriminate use of weapons, in particular improvised explosive devices, and any use of weapons prohibited by international law;

(ii) Cease and prevent the recruitment and use of children in violation of applicable international law, including through abduction, end the military training of children, disband its youth wings and release without preconditions all children within their ranks;

(iii) Cease the abduction of children and all violations and abuses committed against abducted children, in particular rape, sexual slavery and other forms of sexual violence against children, especially girls, and release without preconditions all abducted children whose whereabouts remain unknown;

(b) Condemning attacks against humanitarian personnel and facilities, and stressing that the denial of humanitarian assistance, including by deliberately impeding humanitarian access, in particular to those trapped in besieged areas, can constitute a breach of international humanitarian law and have a serious impact on children.

9. The Working Group agreed to address a message, through a public statement by the Chair of the Working Group, to the Government of Iraq:

(a) Recognizing the commitments of the Government to enhance the protection of children in Iraq, in particular those made towards establishing an interministerial committee on the implementation of Security Council resolution 1612 (2005) to support the monitoring and reporting mechanism on children and armed conflict, and strongly urging in this regard its urgent activation by the Government;

(b) Recalling the commitment of the Government to adopt measures to criminalize the recruitment and use of children in armed conflict, and requesting it to immediately implement those measures by taking all appropriate legal and judicial measures against the recruitment and use of children.

10. The Working Group agreed to address a message, through a public statement by the Chair of the Working Group, to community and religious leaders:

(a) Emphasizing their important role in strengthening the protection of children in armed conflict;

(b) Urging them to continue to publicly condemn and advocate end to and preventing violations and abuses against children, in particular those involving recruitment and use of children, and encouraging them to engage with the Government and the United Nations to support efforts to put an end to child recruitment and use by parties to the armed conflict, in conformity with the laws of Iraq.

Recommendations to the Security Council

11. The Working Group agreed to recommend that the President of the Security Council transmit a letter by the Chair of the Working Group addressed to the Government of Iraq:

(a) Recognizing the grave security threats and challenges in maintaining law and order in the country;

(b) Stressing that the Government retains the primary responsibility for the protection of civilians, including children, and noting in this regard that Iraq is a State party to the Convention on the Rights of the Child, including its Optional Protocol on the involvement of children in armed conflict, and other relevant human rights and international humanitarian treaties;

(c) Commending efforts by the Government to develop a policy framework to enhance the protection of children and prevent child recruitment and use by ISIL/Da'esh and armed groups utilizing extreme violence, and encouraging further action to take forward this engagement, in cooperation with the United Nations;

(d) Expressing deep concern over the recruitment and use of children by the popular mobilization forces, and calling upon the Government to ensure the release of all children associated with them and to put an immediate end to child recruitment and use by the popular mobilization forces in line with its obligations under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, including by developing and enforcing appropriate age verification procedures for recruitment;

(e) Calling upon the Government, in close coordination with the United Nations and relevant child protection actors, to ensure the reintegration and rehabilitation of children associated with parties to the conflict, including the popular mobilization forces;

(f) Welcoming the efforts of the Government to strengthen the rule of law, highlight the importance of accountability, and calling upon the Government to enhance the protection of children in legislation, including by criminalizing the recruitment and use of children, by ensuring that no exceptions relevant to the age of recruitment are included in the national guard law, by ensuring the application of the existing law precluding the application of the death penalty or life imprisonment for crimes committed by persons under 18 years of age and by amending the anti-terrorism law to preclude the latter;

(g) Welcoming the development of a National Child Protection policy as a framework to strengthen child protection service delivery aimed at preventing, protecting and rehabilitating children at risk of recruitment, and urging the Government to ensure the prompt implementation of the policy;

(h) Commending the joint efforts of the United Nations and child protection actors to support the development by the Government of a national strategy for community-based reintegration and prevention programming to address the recruitment and use of children, and noting the need for timely, adequate and sustainable funding and support for its implementation;

(i) Calling upon the Government to consider non-judicial measures as alternatives to prosecution and detention that focus on the rehabilitation and

reintegration of children formerly associated with armed forces and armed groups and to comply with its obligations under the Convention on the Rights of the Child, taking into account that the deprivation of liberty for children should be used only as a measure of last resort and for the shortest appropriate period;

(j) Expressing concern over the allegations of torture and ill-treatment of children in detention for alleged association with armed groups or on national security charges, and recalling the international obligation of the Government to ensure adherence to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

(k) Expressing grave concern over the rising civilian casualties, including children, as a result of the armed conflict, and urging the Iraqi security forces to comply with their obligations under international humanitarian law, in particular the principle of distinction, by distinguishing between military objectives on the one hand and civilians and civilian objects on the other, and the principle of proportionality, by taking all feasible precautions to minimize civilian casualties in an attack;

(l) Reiterating the key role and importance of the interministerial committee on the implementation of resolution 1612 (2005), and urging the Government to activate this mechanism to facilitate regular dialogue and information-sharing between the Government and the United Nations and coordinate action on issues affecting children in the context of armed violence and conflict;

(m) Urging the Government to strengthen the provision of and access to specialized and gender-sensitive services for child victims of sexual violence in armed conflict, including those from ethnic and religious minority groups;

(n) Stressing the importance of accountability for all violations and abuses against children, and urging the Government to end impunity by ensuring that all such perpetrators, including members of its own security forces and the popular mobilization forces, are swiftly brought to justice through rigorous, timely, independent and impartial investigation and prosecution;

(o) Noting that continued armed violence and conflict in Iraq has exposed children to violations and abuses, resulting in intense psychological distress and trauma, and urging the Government to strengthen reintegration and rehabilitation programmes, including mental health and psychological programmes to address the needs of children;

(p) Inviting the Government to keep the Working Group on Children and Armed Conflict informed of its efforts to implement the recommendations of the Working Group and the Secretary-General, as appropriate.

12. The Working Group agreed to recommend that the President of the Security Council transmit a letter by the Chair of the Working Group addressed to the Secretary-General:

(a) Welcoming the efforts of his Special Representative for Children and Armed Conflict, the United Nations Assistance Mission for Iraq (UNAMI) and the United Nations Children's Fund to highlight the plight of children affected by armed conflict in Iraq and advance efforts to strengthen their protection;

(b) Requesting the Secretary-General to ensure that the country task force on monitoring and reporting in Iraq and other relevant United Nations agencies continue their engagement and efforts to support the Government of Iraq to address violations and abuses committed against children in armed conflict;

(c) Recognizing the importance of the monitoring and reporting of violations and abuses against children, and requesting the Secretary-General to ensure the continued effectiveness of the monitoring and reporting mechanism on violations and abuses against children in armed conflict in Iraq, especially in the areas most affected by conflict;

(d) Requesting the Secretary-General to continue to give priority to the child protection activities and capacity of UNAMI and ensure that information and analysis on children and armed conflict in Iraq are specifically included in his future reports, in line with relevant Security Council resolutions.

13. The Working Group agreed to recommend the following to the Security Council:

(a) To continue to ensure that the situation of children affected by the armed conflict in Iraq continues to be taken into consideration by the Security Council when reviewing the mandate of UNAMI and its activities;

(b) To ensure the continuation of and support for the implementation of child protection capacities for UNAMI, especially with regard to monitoring and reporting on violations and abuses committed against children in armed conflict, as well as preventing such violations and abuses, including through training on and mainstreaming of child protection;

(c) To communicate the present document to the Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning the Islamic State in Iraq and the Levant (Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities.

Direct action by the Working Group

14. The Working Group agreed to send letters from the Chair of the Working Group addressed to the World Bank and other donors:

(a) Stressing the critical child protection needs in Iraq, and calling upon the international community to support the Government in implementing national programmes and initiatives to enhance the protection of children and to support monitoring and reporting activities by the United Nations and its partners to inform and identify child protection priorities and enhance child protection programming;

(b) Emphasizing the importance of international support towards enhancing the institutional capabilities of the Government, and in this regard calling upon the World Bank and donors to provide flexible, timely and sufficient funding and support to the Government of Iraq towards strengthening the protection of children affected by the armed conflict, including:

(i) Supporting the implementation of the National Child Protection policy and sustainable multisectoral release and reintegration programmes for all children formerly associated with parties to the conflict, emphasizing the importance of socioeconomic reintegration and the need to support viable and

sustainable alternative livelihoods in order to prevent the re-recruitment of children;

(ii) Supporting the provision of access to adequate health care, emphasizing the importance of continued investment in service delivery and mental health and psychosocial programmes addressing the needs of children affected by the ongoing armed conflict;

(iii) Supporting the provision of and access to specialized services for child victims of sexual violence in armed conflict, including timely and non-discriminatory medical and psychosocial assistance to child victims, including from ethnic and religious minority groups, of rape and other forms of sexual violence committed in armed conflict;

(c) Inviting the World Bank and donors to keep the Working Group informed on their funding and assistance efforts, as appropriate.

Annex

Statement by the Deputy Permanent Representative of Iraq to the United Nations on the report of the Secretary-General on children and armed conflict in Iraq (S/2015/852), made at the 57th formal meeting of the Working Group on Children and Armed Conflict

Translated from Arabic

At the outset, I would like to thank the Working Group on Children and Armed Conflict for allowing my delegation to attend this session and present Iraq's position on the Secretary-General's report, which covers the period from January 2011 to June 2015 and which my delegation has reviewed.

After receiving the first draft of the report on 15 September 2015, the Permanent Mission held several bilateral meetings with the Office of the Special Representative of the Secretary-General, and we made some observations and comments on a number of paragraphs. We submitted them officially and asked that they be taken into consideration when the final copy of the report was issued. However, those observations and comments were not incorporated into the final draft of the report. While Iraq appreciates the efforts made in preparing the report and shedding light on the grave violations committed daily by Islamic State in the Levant (ISIL) terrorist gangs against Iraqi children from all segments of society, we feel obliged to reiterate our observations on the report.

A number of paragraphs, such as the paragraph on the Hawijah incident, appear to have been inserted into the report in a subjective manner that is not in keeping with the Special Representative's mandate. The report also contains political analyses, extrapolations and inferences about the causes and roots of terrorism and violence in Iraq. It states that specific components of Iraqi society have been subject to violations and abuses, when in fact all Iraqis have been exposed to the dangers of terrorism and are fighting together to defend their land, honour, property and holy places.

Certain figures and data on injured children in the report are inflated, exaggerated and inaccurate, in some cases to the point of being inconsistent and contradictory. We wonder how far the Office of the Secretary-General went to verify such information from its sources and how appropriate and credible those sources are.

Those sources are not reliable. The information they provided comes via e-mail from activists and certain organizations whose motives are suspect. The figures cannot be verified because they come from sources located not in the theatre of operations or even in the liberated areas, but rather in offices in Baghdad, and possibly include — we are sorry to say — certain individuals in the office of the United Nations Assistance Mission for Iraq (UNAMI). Our Mission has had a number of discussions about the figures and data in the report with Ján Kubiš, who admitted that neither his office nor any other agency was able to verify them.

The report places the crimes, violations and brutal practices of the ISIL terrorist gangs — which include murder, torture, sexual violence, slavery, kidnapping and forced marriage — on the same footing as isolated cases of

individual wrongdoing on the part of Iraqi security forces and the organizations fighting alongside them — which are of the sort that occur in most armed conflicts. I would also like clarification from the Office of the Secretary-General regarding the use of the term "parties to the conflict" and whether it applies to the situation in Iraq. That term should not be used in the context of counter-terrorism. Iraq is fighting terrorist gangs that have come to wage war on its territory and in its cities. Those gangs have violated Iraq's sovereignty, infiltrated its territory and committed horrific crimes against its citizens. The Iraqi armed forces and the tribal volunteers fighting alongside them are merely trying to restore security, order and the rule of law. Furthermore, the Government of Iraq has a legal and moral obligation to protect civilians, whereas the terrorists are under no such obligation. It is totally unacceptable to equate the ISIL terrorist gangs with the Iraqi security forces by referring to them as "parties to the conflict".

The report makes reference in several places to child casualties from specific communities, implying that there are ideological, confessional or sectarian conflicts or disputes going on, which is not the case. In fact, the terrorist acts that have been committed in Iraq have been directed against all groups in society, as was the case, for example, with the recent criminal terrorist incident that occurred last Sunday in a busy market in Sadr City.

The report also refers to the recruitment of children by the popular mobilization units. We would like to point out that the popular mobilization volunteers are subject to the same military legislation as their counterparts in the security forces. The popular mobilization is under the Prime Minister, who is Commander-in-Chief of the armed forces, and it maintains the same recruitment and training procedures as the security forces. None of the forces and units that comprise the popular mobilization use people who are under the legal age.

The fatwa handed down by the religious authorities on 5 June 2015, which was addressed in this report, was not intended to recruit schoolchildren into the popular mobilization militias. It merely urged students to train psychologically and physically to defend themselves, and to take advantage of the summer holidays to better prepare themselves to defend the country against the terrorist onslaught. Iraq is not alone in having summer camps; many stable, advanced countries provide similar activities for students during the holidays.

The Iraqi Penal Code provides for life imprisonment for offenders between 18 and 20 years of age. Under Iraqi law, the death penalty may only be applied to offenders over the age of 20.

The Government of Iraq is carrying out its obligation to protect schools, hospitals and infrastructure from attacks by terrorist gangs despite facing great challenges, including the huge costs associated with the war on terrorism, particularly given the sharp decrease in the price of oil and the burden of taking care of displaced persons.

Finally, the Government of Iraq has been working tirelessly under extremely difficult conditions to protect the rights of all segments of Iraqi society, particularly those of children. It takes all measures necessary to guarantee their protection, in fulfilment of its moral and legal responsibilities. It rejects certain claims contained in the report.